

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.**

In the Matter of

Implementation of the Pay Telephone	)	
Reclassification and Compensation	)	
Provisions of the	)	CC Docket No. 96-128
Telecommunications Act of 1996	)	

**PETITION FOR WAIVER**

Pursuant to Section 1.3 of the Commission's Rules,<sup>1</sup> PNG

Telecommunications, Inc. d/b/a PowerNet Global Communications ("PNG") respectfully requests a temporary waiver of the requirements contained in 47 C.F.R. § 64.1320 to complete audits of its call tracking system and to file audit reports by July 1, 2004. PNG requests a short, temporary waiver to permit them an extension of time until September 1, 2004 to complete its audits and to file its audit reports. In support of this request, PNG submits the following:

**I. BACKGROUND**

PNG is an interexchange carrier serving primarily residential customers in the 48 contiguous states. PNG is a Completing Carrier within the meaning of Section 64.1320 of the Commission's rules and therefore are required to complete an audit of the call tracking system required by Section 64.1310(a) of the Commission's rules and to file an audit report by July 1, 2004, the effective date of Section 64.1320.

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<sup>1</sup> 47 C.F.R. § 1.3

PNG timely completed implementation of the call tracking system required by Section 64.1310. Further, PNG engaged Billing Concepts, Inc. (“BCI”) to calculate and distribute the correct payment amounts to Payphone Service Providers (“PSPs”). BCI is completing an audit of its procedures based on SAS 70 and plans to provide the report to PNG before July 1, 2004. PNG will file BCI’s report as part of its own audit report. PNG will begin sending information for compensable calls from payphones to BCI at the end of September, 2004 so that BCI may calculate and distribute payments for the period July 1, 2004 to September 30, 2004. PNG completes an average total of about 40,000 access code and subscriber toll-free calls from payphones each month. Therefore, PNG will pay approximately \$9,600 in total payphone compensation each month.

PNG has made diligent efforts to complete the required audit of the system. PNG interviewed several auditors but each auditor is busy completing similar audits for other carriers and will conduct an audit immediately for PNG only for a premium price. For example, PNG received a quote for the audit of \$125,000 – more than the total amount of compensation that PNG expects to pay each year. All of the auditors interviewed said that the price for the audit would be about 50% less if they were allowed approximately six to eight weeks to complete the audit and prepare the audit report.

## **II. WAIVER IS WARRANTED**

Under the circumstances, the requested waiver giving PNG an extension of time until September 1, 2004 of the deadline for completing its audit and filing an audit report is warranted.

### **A. Waiver Standard**

Pursuant to Section 1.3 of the Commission's rules, the Commission may waive its rules upon petition for good cause.<sup>2</sup> The Commission may take into account such factors as hardship and equity.<sup>3</sup> Waiver is appropriate where circumstances make strict compliance inconsistent with the public interest or where waiver is justified in the public interest.<sup>4</sup>

**B. Good Cause Exists for Grant of the Waiver**

PNG has worked diligently to comply with Sections 64.1310 and 64.1320 of the Commission's rules. PNG completed implementation of the call tracking system and is continuing efforts to complete the audit and to file an audit report as required. PNG engaged the services of BCI to calculate and distribute payments due to PSPs for compensable calls made during the period July 1, 2004 to September 30, 2004 and will begin sending BCI data for their calculations and payments beginning October 1, 2004.

Thus, the equitable considerations discussed above support a grant of an extension of time to complete the audit and to file the audit report. If PNG's requested extension to September, 1 2004 is granted, the audit of PNG's tracking system will be completed prior to PNG sending any data to BCI for calculation and payment of compensation of PSPs, thereby minimizing the risk of inaccurate payments. At the same time, granting the extension will lessen substantially the cost of completing the required audit. On the other

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<sup>2</sup> 47 C.F.R. § 1.3; *see also* *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert denied* 409 U.S. 1027 (1972)(*WAIT Radio*).

<sup>3</sup> *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (*Northeast Cellular*).

<sup>4</sup> *Id.*

hand, requiring PNG to comply strictly with the July 1<sup>st</sup> deadline would create an undue burden on PNG.

Further, granting the requested waiver is consistent with the public interest in that it will allow sufficient time for the audit required by Section 64.1320 to be completed. This, in turn, will ensure that PNG's tracking system is fully compliant with the Commission's rules and will ensure that PSPs are compensated properly for dial-around calls.

### **III CONCLUSION**

Good cause exists for granting PNG a temporary waiver to allow an extension of time until September 1, 2004 to complete the audit and to file the audit report required by Section 64.1320. Grant of the waiver is warranted by equitable considerations and will avoid placing an undue burden on PNG. Grant of the waiver is also consistent with the public interest.

Respectfully submitted,

PNG TELECOMMUNICATIONS, INC.  
d/b/a  
POWERNET GLOBAL COMMUNICATIONS

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